

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**UNITED STATES OF AMERICA**

**v.**

**JALEN THOMAS KELLEY,**

**Defendant.**

**CRIMINAL NO. JRR-23-0327**

**MEMORANDUM IN SUPPORT OF PRETRIAL DETENTION**

The United States of America respectfully submits this memorandum in support of pretrial detention, under 18 U.S.C. § 3142. The Court should order pretrial detention. The Government has amassed evidence that Jalen Kelley (“Kelley”) raped Victim 1 and has sexually assaulted and/or raped eight (8) additional victims (since 2013, including after knowing he was being investigated for the rape of Victim 1).

**A. PROCEDURAL BACKGROUND**

On September 19, 2023, the Grand Jury returned a three-count indictment, under seal, against Kelley. Kelley is charged in Counts One with Aggravated Sexual Abuse (18 U.S.C. § 2241(a), in Count Two with Sexual Abuse (18 U.S.C. § 2242(3), and in Count Three with Assault within Territorial Jurisdiction (18 U.S.C. § 113(a)(1), all against Victim 1, a 17-year-old female. Kelley was arrested on September 20, 2023, in the Western District of North Carolina. ECF 1. On September 21, 2023, Kelley appeared in the Western District of North Carolina and requested to be transferred back to Maryland. ECF 5. On October 19, 2023, Kelley appeared before Judge J. Mark Coulson for an Initial Appearance and Arraignment. ECF 11. Pretrial Services prepared a report recommending pretrial detention, indicating that no condition or combination of conditions can reasonably assure the safety of the community. Under 18 U.S.C. § 3142 (f) (1)(E),

the Government requested that Kelley be detained pretrial. On October 19, 2023, Kelley was ordered detained by agreement. ECF 14. A detention hearing was requested by Kelley and is set for November 16, 2023, at 10:30 am.

#### **B. FACTUAL BACKGROUND**

Kelley is 21 years old and was previously enrolled in his junior year of college at Wingate University in North Carolina. Kelley was raised in Maryland and attended school in Harford County. Victim 1, who turned seventeen while on the cruise, met Kelley while on the Carnival Cruise ship, Carnival Legend, that left from Baltimore, Maryland on December 26, 2022, and returned to Baltimore on January 2, 2023. Victim 1 first met Kelley in the early morning hours of January 1, 2023, after a New Years Eve Party that was held on the cruise ship. Kelley initially introduced himself with various names, including “Brendon” but later used the name “Jay.”

On the evening of January 1, 2023, Victim 1 needed to use the restroom and Kelley stated he would take Victim 1 to the bathroom. Kelley took Victim 1 to use the bathroom in his cabin. Upon exiting the bathroom, Kelley pushed Victim 1 down onto the bed, face first, pulled her pants down and forced his penis inside Victim 1. Victim 1 attempted to push Kelley off her by reaching back with her arms but was unsuccessful. After raping Victim 1, Kelley asked, “You good?” Immediately following, Victim 1 pulled up her pants and exited the room. Upon exiting the room Kelley asked Victim 1 for her Snapchat username. Victim 1 did not provide it but did provide her name and watched Kelley enter it into the Notes section of his cellular phone. Victim 1 noted that she saw other names in the notes section. A search warrant was obtained for Kelley’s phone and Victim 1’s name was found in the Notes section along with other names of unidentified people.

The cruise ship returned to Baltimore the following morning, January 2, 2023. Victim 1 exited the ship and returned to her home in Virginia. That evening she reported to her parents that she was raped and subsequently reported it to the police.

Victim 1 was referred to the hospital to have a physical evidence recovery kit (PERK) exam conducted. That exam indicated several bruises on Victim 1's extremities, including an oval 1cm by 0.75 cm light purple bruise on her right wrist/forearm, and bruises on her shins where Victim 1 stated she was pushed against Kelley's bed. The exam also revealed vaginal abrasions, tearing and bruising. FBI agents boarded the cruise ship and the room where Kelley stayed. Measurements and photographs were taken of the metal bed rail around the bedframe on the ship. The height of the metal rail is consistent with the bruises on Victim 1's shins that are seen in the PERK exam.

On April 18, 2023, Kelley was interviewed by the FBI at Wingate University. Kelley was told he was free to leave the room at any time. FBI agents discussed why they were there. Kelley said Victim 1 said she needed to use the bathroom and he offered to let her use his because his bathroom was the closest. Kelley assumed Victim 1 was under the influence because of how she was acting, but stated he was not under the influence of anything. Kelley confirmed that the night of January 1, 2023, was the first night he met Victim 1, and stated that they were kissing and touching outside of his room at the door, Victim 1 used the bathroom, and they left without any further physical interaction. Kelley said after Victim 1 used the bathroom he made sure everything was "cool" and when asked what he meant by that he stated he said, "ok – you good, use the bathroom, okay let's go." Kelley was asked if any other contact happened between them inside the room, he responded, "No, sir, um, if anything, me being the person that I am, I guess, I made sure that happened before we went inside the room, again kissing on my neck, rubbing and touching on me, my hands are nothing but, on her waist, right outside the door."

### C. ADDITIONAL VICTIMS

Kelley has inappropriately touched, sexually assaulted, or raped eight (8) additional victims.

From approximately 2013 to 2017, Kelley sexually assaulted Victim 2. Kelley repeatedly touched her inappropriately both above and under the clothing on various parts of her body including her genitalia, grabbed her from behind, grinded his pelvis on her, and on at least one occasion took his penis out and pushed it against her exposed vagina from behind. These assaults occurred on a regular basis throughout 2013-2017. During this time, Kelley was approximately 11-15 and Victim 2 was approximately 9-13. Victim 2 reported the abuse to family members in 2017 and the abuse stopped after the two were told they could not be alone together.<sup>1</sup> Sometime in the Summer of 2021, Victim 2 recorded a conversation with Kelley where she attempted to talk to him about what happened and warned him not to continue the same behavior when he started college. Victim 2 provided a portion of the recording to FBI agents.<sup>2</sup> Following the arrest in the current case, Victim 2 came forward to law enforcement. These allegations are currently under investigation in Harford County, Maryland.

In February 2017, Victim 3 was involved in an incident with Kelley. At the time, Victim 3 and Kelley were in Middle School.<sup>3</sup> Victim 3 originally said the sexual encounters were consensual but in October 2018 told officials they were not. While Victim 3 and Kelley were students at Magnolia Middle School, beginning in 6<sup>th</sup> grade through the start of 8<sup>th</sup> grade, Kelley repeatedly coerced Victim 3 to perform oral sex on him in the bathroom. These assaults occurred

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<sup>1</sup> Family members including Kelley's mother and father, Kelley's sister, and Jane Doe 5's mother confirmed that Jane Doe 5 reported the sexual abuse in 2017, although the accounts of what was reported differ from the witnesses.

<sup>2</sup> FBI agents are coordinating with Victim 5 to get the entire recording because of the size of the file Victim 5 is unable to send it electronically and will need to have it pulled directly from her cellular device.

<sup>3</sup> Victim 3 and Kelley were approximately 11-14 years old during the incidents, over the span of 3 years.

throughout the 6<sup>th</sup> and 7<sup>th</sup> grades, continuing until the start of 8<sup>th</sup> grade. Kelley denied that they ever happened.

On May 18, 2017, Harford County Sheriff's Office responded to Magnolia Middle School after Victim 4, 13 years old, reported that Kelley, then 14 years old, asked her for a hug and to go where there were no cameras. Victim 4 gave Kelley a hug and he began to reach for her buttocks, and she pushed his hands away. Victim 4 was walking away and Kelley asked if he could give her hug from behind. Later that day, Victim 4 confronted Kelley about his behavior and Kelley again touched her buttocks without her permission.

On October 4, 2018, Victim 5 reported to the School Resource Officer at Edgewood High School that Kelley sexually assaulted her in a stairwell on two occasions on September 27, 2018, and October 2, 2018. On the first occasion Kelley grabbed her and forcefully turned her around and grabbed her private area while grinding on her from behind. Kelley let go when someone was coming down the stairs, and started again as soon as the person passed. On the second occasion, Kelley took Victim 5 into the stairwell and turned her around by her waist, so her back was to him, grabbed her private area, and rubbed against her from behind. Victim 5 cursed at him to stop and escaped his grasp. Harford County Sheriff's Office reviewed the video security and while the incident was not caught on camera, Kelley can be seen peeking his head out of the stairwell when he thinks someone is coming. At the time of the incidents, Victim 5 was 15 years old and Kelley was 16 years old.

On April 3, 2019, Kelley assaulted Victim 6 in the hallway at Edgewood High School. Victim 6 gave Kelley a side hug and Kelley picked her up and she struggled to get away from him. Kelley wrapped his arms around her from behind and grinded her with his pelvis. Security camera footage depicted Kelley and Victim 6 outside camera view, but their shadows can be seen and

Kelley does pick up Victim 6, but nothing else can be determined from the video. At the time of the incidents, Victim 6 was 16 years old and Kelley was 16 years old.

On September 16, 2019, Kelley asked Victim 7 to meet him in the stairwell of Edgewood High School. Victim 7 met Kelley in the stairwell and kissed Kelley but she started to feel uncomfortable and told Kelley she didn't want to kiss anymore. Victim 7 attempted to get away but was unable and Kelley touched her pelvis and her breast. As Victim 7 attempted to get away, Kelley forcibly grabbed Victim 7's arms and pinned her against the wall and proceeded to rub his erect penis against her. Victim 7 told Kelley "no" multiple times, but Kelley turned her around and grinded his penis against her buttocks. Kelley was making grunting noises while he was doing this. Camera footage was reviewed, and Victim 7 can be seen going into the stairwell and approximately 5 minutes later runs out visibly upset. Kelley was charged in Juvenile Court with forth degree sexual assault and second-degree assault. He was sentenced to ninety (90) days supervised probation and he was removed from Edgewood High School and sent to an alternative school for a period of time. At the time of the incidents, Victim 7 was 16 years old and Kelley was 17 years old.

In October 2023, Victim 8 disclosed to the FBI that Kelley raped her in January 2020, after he offered to give her a ride home. Victim 8 worked with Kelley at Dunkin Donuts in 2019-2020, when she was 17-18 years old and Kelley was 17-18 years old. Although Kelley had previously flirted with Victim 8, she rebuffed his advances and made it clear to him that she only wanted a ride home. Victim 8 did not have her own vehicle and was attempting to save money by accepting a ride from Kelley. Instead of taking Victim 8 home, Kelley drove to the back of the store and parked. Victim 8 asked what he was doing and asked him to please take her home and Kelley said he just wanted to talk to her and asked why she wouldn't give him a chance. Kelley tried to kiss

her and Victim 8 said no and attempted to push him off her. Kelley forced himself on top of Victim 8 and touched her over and under her clothing and attempted to digitally penetrate her. Kelley eventually penetrated her vagina with his penis and asked her to call him “daddy.” Victim 8 disassociated and waited for it to be over because he wasn’t responding to her pleas for him to stop. When Kelley was finished, he got off of her, pulled his pants up, and said, “see it wasn’t that bad.” Victim 8 reported a few days later to her mother that something inappropriate had occurred. Harford County is currently investigating the events involving Victim 8.

In August 2023, Victim 9 met Kelley at Wingate University and the two started hanging out.<sup>4</sup> Victim 9 was 21 years old, and Kelley was 20 years old. On August 30, 2023, Victim 9 met Kelley in his car in the parking lot. They were kissing when Kelley asked her to get in the back seat. The two started having intercourse and during the intercourse Victim 9 became uncomfortable and asked Kelley to stop. Kelley replied with “No, No, it’s ok” and continued to engage in intercourse until he finished. Although Victim 9 was upset, she continued talking to Kelley following the incident. On September 1, 2023, Victim 9 went to McDonald’s with Kelley and Kelley took her back to his place and left. Kelley returned later that night and Victim 9 told him they would not be having sex because she was on her period. Kelley kept trying to take Victim 9’s pants off and Victim 9 kept telling Kelley to stop. Kelley refused to stop and removed Victim 9’s pants and had intercourse with her without her consent. Victim 9 said they showered afterwards, and Kelley made her “pinky promise” not to tell anyone they had sex. Victim 9 reported to Wingate law enforcement after she saw the news release that Kelley had been arrested by the FBI. There is currently an outstanding arrest warrant for Kelley from Union County, North Carolina, for 2<sup>nd</sup> Degree Forcible Rape, NC Code 14-27.22, related to Victim 9.

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<sup>4</sup> Notably, Kelley met and raped Victim 9 four months *after* he was interviewed by the FBI regarding his rape of Victim 1.

#### **D. ANALYSIS OF 18 U.S.C. § 3142(g) FACTORS**

The totality of the circumstances compels detention of Kelley. Kelley is charged with Aggravated Sexual Abuse, 18 U.S.C. 2241(a) and Sexual Abuse, 18 U.S.C. 2242(3). Under 18 U.S.C. 3142 (e)(3)(E) (listing 2241 and 2242 as enumerated offenses) there is a presumption in favor of detention. This provision also requires the judicial officer to find that there is probable cause to believe that Kelley committed the enumerated offenses. 18 U.S.C. 3142(e)(3). This finding may be made by virtue of the grand jury indictment itself. *United States v. Anderson*, 2020 WL 1929440 at \*2 (D. Md. Apr. 20, 2020). When seeking detention based on community safety, the Government's burden is clear and convincing evidence. *Id.* In a presumption case where evidence is offered by the defendant to counter the presumption, the presumption "does not fall out of the picture entirely but rather remains a factor in the court's totality of the circumstances analysis. *Id.* at \*3. When seeking a detention order, the Government may proceed by proffer of evidence. See *United States v. White*, 2015 WL2374229, at 82 (D. Md. May 15, 2015).

*Nature and Circumstances of the Offenses Charged:*

Kelley raped Victim 1, a seventeen-year-old girl, while she was traveling with her family on a holiday cruise. Kelley saw that Victim 1 was intoxicated (by his own admission), realized she was vulnerable, and offered to take her to the bathroom. Kelley took her into his cabin, closed the door, and when she exited the bathroom, took full advantage of the situation, pushed Victim 1 down on her stomach, pulled her pants down, and forcibly raped her. When Kelley was finished he asked her, "you good?" and escorted her out of the room.

*Weight of the Evidence Against the Person:*

Victim 1 reported she was raped in the early evening hours of January 2, 2023, to her friends, and later on January 2, 2023, to her parents and the police. Victim 1 had identical bruises

on each shin, consistent with the height of the bed in Kelley's cabin on the cruise and consistent with her account of what Kelley did to her. Victim 1 had vaginal tearing and vaginal bruising, consistent with a forcible rape.

Kelley was confronted by a number of teenagers and young adults in the hours following the rape of Victim 1, unaware that he was being recorded. The audio recording was sent to the FBI Operational Technology Division for enhancement. In the recording, Kelley stated, "when [Victim 1] was here, she was fine." Kelley later stated, "we went to the room. [Victim 1] went to use the bathroom. We were gone maybe three minutes. From the piano, piano on the 4<sup>th</sup> floor, piano on 3<sup>rd</sup> floor, we were gone and back maybe three minutes tops. Used the bathroom, didn't even flush the toilet, left tissue and piss in my toilet." Later in the video, Victim 1's brother is heard stating, "she was clearly fucking drunk." Kelley responded, "yeah she was." At approximately 5 minutes and 6 seconds into the recording the following exchange occurs:

Unknown Male: So she made out with you, you said, she made out with you (inaudible) and somehow she's not a virgin anymore.

KELLEY: Did she say that we made out?

Victim 1's Brother: Yeah that's what you said

KELLEY: I know, I know. I know what I said.

Victim 1's Brother: Yeah, that's what you said, so, that's all we need.

Kelley was interviewed by FBI agents in April 2023 and stated that he offered to take Victim 1 to his cabin to use the bathroom because it was the closest bathroom. Kelley stated they were engaged in sexual activity outside the door, mainly kissing, but he adamantly denied any sexual activity occurred inside the bedroom. Kelley stated he asked Victim 1 if she was good after she left the bathroom.

Kelley's mother was interviewed by law enforcement and stated Kelley told her immediately following the cruise that Victim 1 asked to use his bathroom and the two were engaged in sexual activity while inside the bedroom and that they engaged in "all kinds of stuff" but that he decided he did not want to have sex and so he stopped it and they never had sex.

*History and Characteristics of the Person:*

Kelley has a prior juvenile conviction for sexual assault in 2019. Additionally, Kelley has an alarming history of allegations of sexual assault from males and females spanning from early 2017 through September 2023. Kelley's sexually aggressive behavior began at a very early age, first with the repeated sexual assaults and inappropriate touching of a family member, Victim 2, then when he coerced Victim 3 to perform oral sex on Kelley, through his middle school and high school years, eventually resulting in a juvenile conviction in 2019.

In 2020, Kelley raped a co-worker in his vehicle after offering her a ride home from work.

Kelley's rape of Victim 1 was in January 2023. In April 2023, Kelley was interviewed by the FBI on the campus of Wingate University and was made aware of the seriousness of the allegations against him and the ongoing investigation regarding Victim 1. Four months later, in August 2023, he raped a classmate at Wingate University, for which he is currently charged in North Carolina.

*Nature and Seriousness of the Danger to Any Person or the Community:*

This factor strongly favors detention. Kelley will likely point to limited criminal history, ties to the community, and his athletic career as the reason why he should be allowed to remain in the community. Kelley is a danger to the community. Kelley's predatory offenses have made it clear that nothing will deter his behavior, even knowledge of an ongoing federal investigation.

For this reason, and by nature of the crimes themselves, Kelley is a continuing danger to people everywhere.

**E. SENTENCING GUIDELINES, MANDATORY MINIMUM AND MAXIMUM PENALTIES**

Kelley faces up to life in prison if convicted of Aggravated Sexual Abuse or Sexual Abuse, and up to 20 years of incarceration if convicted of assault within the territorial jurisdiction. As charged, the guidelines reflect an offense level of 36. Based on the evidence described above, the Government expects a guideline range of life imprisonment for all of Kelley's conduct.

**F. CONCLUSION**

For the reasons stated above, and for any other presented at the detention hearing, there is no condition or combination of conditions that would reasonably assure the safety of the community, and Jalen Kelley should be detained pending trial.

Respectfully Submitted,

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